

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS PATRICK McCOLLUM 640 American Ave., Apt. E-106 king of Prussia, PA 19406 (b) County of Residence of First Listed Plaintiff <u>Montgomery</u> (EXCEPT IN U.S. PLAINTIFF CASES)		DEFENDANTS OFFICER JOHN DOE #1 c/o City Solicitor's Office 1515 Arch St., Phila., PA 19102 County of Residence of First Listed Defendant <u>Philadelphia</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.	
(c) Attorney's (Firm Name, Address, and Telephone Number) JAFFE & HOUGH 1907 Two Penn Cntr. Phila., PA 19102 (215) 564-5200		Attorneys (If Known) unknown	
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)	
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)		Citizen of This State <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> DEF <input checked="" type="checkbox"/> PTF	Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input checked="" type="checkbox"/> DEF <input type="checkbox"/> PTF
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 <input type="checkbox"/> PTF	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 <input type="checkbox"/> PTF
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 <input type="checkbox"/> PTF	Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 <input type="checkbox"/> PTF
IV. NATURE OF SUIT (Place an "X" in One Box Only)			
CONTRACT		TORTS	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise		PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	
		FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	
		BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
		OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	
REAL PROPERTY		CIVIL RIGHTS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		PRISONER PETITIONS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	
		LAW <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	
		SOCIAL SECURITY <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act	
		FEDERAL TAX SUITS <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	
V. ORIGIN (Place an "X" in One Box Only)		Appeal to District Judge from Magistrate Judgment	
<input checked="" type="checkbox"/> 1 Original Proceeding		<input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstituted or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7	
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>§ 1983 and § 1331</u>			
Brief description of cause: Plaintiff claims Constitutional violations including defendants' use of excessive force.			
VI. CAUSE OF ACTION		VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	
		DEMAND \$ in excess of \$150,000.00	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
VIII. RELATED CASE(S) IF ANY None		(See instructions): JUDGE DOCKET NUMBER	
DATE	SIGNATURE OF ATTORNEY OF RECORD Timothy R. Hough, Esq.		
11/24/2009			
FOR OFFICE USE ONLY			
RECEIPT #	AMOUNT	APPLYING IPP	JUDGE MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

PATRICK McCOLLUM

CIVIL ACTION

v.
OFFICER JOHN DOE #1, et al.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

<u>11/24/2009</u>	<u>Timothy R. Hough, Esq.</u>	<u>Patrick McCollum</u>
Date	Attorney-at-law	Attorney for plaintiff
<u>(215) 564-5200</u>	<u>(215) 563-8729</u>	<u>jafhough@aol.com</u>
Telephone	FAX Number	E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 640 American Avenue, Apt. E-106, King of Prussia, PA 19406

Address of Defendant: 1515 Arch Street, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: Philadelphia, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place ✓ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations

7. Civil Rights

8. Habeas Corpus

9. Securities Act(s) Cases

10. Social Security Review Cases

11. All other Federal Question Cases

(Please specify)

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Timothy R. Hough, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 2(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 11/24/09

Attorney-at-Law

40898

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/24/2009

Timothy R. Hough, Esq.

Attorney-at-Law

40898

Attorney I.D.#

CIV. 609 (6/08)

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICK McCOLLUM
640 American Avenue
Apartment E-106
King of Prussia, PA 19406

CIVIL ACTION NO.

v.

OFFICER JOHN DOE #1
individually and in his capacity
as a Police Officer for the City
of Philadelphia
c/o City Solicitor's Office
1515 Arch Street
Philadelphia, PA 19102
and

JURY TRIAL DEMANDED

OFFICER JOHN DOE #2
individually and in his capacity
as a Police Officer for the City
of Philadelphia
c/o City Solicitor's Office
1515 Arch Street
Philadelphia, PA 19102
and

OFFICER JOHN DOE #3
individually and in his capacity
as a Police Officer for the City
of Philadelphia
c/o City Solicitor's Office
1515 Arch Street
Philadelphia, PA 19102
and

OFFICER JOHN DOE #4
individually and in his capacity
as a Police Officer for the City
of Philadelphia
c/o City Solicitor's Office
1515 Arch Street
Philadelphia, PA 19102
and

**CITY OF PHILADELPHIA POLICE
DEPARTMENT**
c/o City Law Department
1515 Arch Street
Philadelphia, PA 19102
and

CITY OF PHILADELPHIA :
c/o City Law Department :
1515 Arch Street :
Philadelphia, PA 19102 :

CIVIL ACTION COMPLAINT

1. This is an action for money damages brought pursuant to 42 U.S.C. § 1983 and under the common law of the Commonwealth of Pennsylvania.

2. This Court has jurisdiction of this action under 42 U.S.C. § 1983 and 28 U.S.C. § 1331. Plaintiff further invokes supplemental jurisdiction of this Court to hear and decide claims arising under state law.

PARTIES

3. Plaintiff is **PATRICK McCOLLUM**, an adult individual residing at 640 American Avenue, Apartment E-106, in King of Prussia, Pennsylvania.

4. Defendant is **OFFICER JOHN DOE #1**, at all times relevant to this complaint, was and/or is a police officer with the City of Philadelphia, acting under color of state law, pursuant to either official policy, custom, or practice of the Philadelphia Police Department and/or City of Philadelphia. This defendant is being sued in both his individual and official capacity. This officer was acting in concert and conspiracy with other unknown defendant police officers.

5. Defendant is also **OFFICER JOHN DOE #2**, at all times relevant to this complaint, was and/or is a police officer with the City of Philadelphia, acting under color of state law, pursuant to either official policy, custom, or practice of the Philadelphia Police Department and/or City of Philadelphia. This defendant is being sued in both his individual and official capacity. This officer was acting in concert and conspiracy with other unknown defendant police officers.

6. Defendant is also **OFFICER JOHN DOE #3**, at all times relevant to this complaint, was and/or is a police officer with the City of Philadelphia, acting under color of state law, pursuant to either official policy, custom, or practice of the Philadelphia Police Department and/or City of

Philadelphia. This defendant is being sued in both his individual and official capacity. This officer was acting in concert and conspiracy with other unknown defendant police officers.

7. Defendant is also **OFFICER JOHN DOE #4**, at all times relevant to this complaint, was and/or is a police officer with the City of Philadelphia, acting under color of state law, pursuant to either official policy, custom, or practice of the Philadelphia Police Department and/or City of Philadelphia. This defendant is being sued in both his individual and official capacity. This officer was acting in concert and conspiracy with other unknown defendant police officers.

8. Defendant is also the **CITY OF PHILADELPHIA** a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania with an address of c/o City Law Department, 1515 Arch Street in Philadelphia, Pennsylvania

9. Defendant is also the **CITY OF PHILADELPHIA POLICE DEPARTMENT**, (hereinafter "police department") a municipal department of the County of Philadelphia, which at all times relevant was the employer of the City of Philadelphia Police Officers, with an address of c/o City Law Department, 1515 Arch Street in Philadelphia, Pennsylvania.

10. Defendant is also the **CITY OF PHILADELPHIA**, a city of the first class located in the County of Philadelphia, organized and operating pursuant to state and local laws, in its capacity as the employer of the defendant John Doe Philadelphia Police Officers, with an address of c/o City Law Department, 1515 Arch Street in Philadelphia, Pennsylvania.

FACTS

11. It is believed and therefore averred that, at all times material hereto, the defendant John Doe Police Officers described hereafter who were involved in the altercation and assault upon the plaintiff were police officers of the City of Philadelphia and were acting in their capacities as agents, servants, workman and employees of these entities under their direction and control and were acting pursuant to either official policy or the custom, practice and usage of the City of Philadelphia's Police Department.

12. Defendant, City of Philadelphia, in this cause, acted through its agents, employees and servants who was or were the policymakers for the City of Philadelphia and for its employees including the individual police officers involved in the altercation and assault upon the plaintiff which occurred on November 25, 2007 as described more fully hereafter

13. On November 25, 2007 at approximately 2:00 a.m. the plaintiff, Patrick McCollum, was operating a motor vehicle northbound on Interstate 95 at or near the Aramingo Avenue off ramp in the City and County of Philadelphia, Pennsylvania.

14. At or about the above stated time, the plaintiff, who was late arriving home and did not want his wife to become concerned, sped up his vehicle.

15. Shortly thereafter, the plaintiff became aware that a police vehicle was following him and, because the plaintiff had been at a bar and had several glasses of wine, the plaintiff became concerned that he would be arrested for driving under the influence.

16. The plaintiff began to accelerate his vehicle and, subsequently, a police pursuit ensued between the plaintiff and several police vehicles.

17. Subsequently, the plaintiff voluntarily pulled his vehicle over to the right side of the roadway on the I-95 off ramp.

18. Shortly thereafter, a plain clothes police officer approached the plaintiff.

19. After providing his name and license number to the police officer, the plaintiff, who assumed that he would be arrested by the police officer, was told by the officer that no one gets to "flee for free" and later was told that he would be shown "what they do to people who run."

20. Shortly thereafter, upon the arrival of two additional plain clothes Philadelphia police officers, the plaintiff was thrown to the ground landing on his back along the side of the roadway whereupon the two of the three police officers began kicking the plaintiff about his body.

21. After approximately 15 to 20 minutes, a police vehicle arrived on the scene and the Philadelphia police officer who exited that vehicle joined in the assault upon the plaintiff which had escalated to include striking the plaintiff about his head.

22. After at least one of the John Doe defendant police officers involved in the altercation began rummaging through the plaintiff's personal belongings, breaking the plaintiff's glasses and attempting to dial pre-set numbers on the plaintiff's cell phone, the assault upon the plaintiff again escalated with at least one defendant officer spraying silicone into the plaintiff's mouth and another defendant officer forcing dirt into the plaintiff's mouth.

23. Following the assault upon the plaintiff as aforesaid, one of the defendant Philadelphia police officers involved told the plaintiff that, as the officer had the plaintiff's keys and personal effects, if the plaintiff told anyone about the incident, the officer would "rape plaintiff's wife and kill plaintiff's daughter."

24. After the plaintiff became upset and combative following the officer's threat, the officer then punched the plaintiff about his face until the plaintiff lost consciousness.

25. Following the attack upon the plaintiff as aforesaid, the plaintiff's vehicle was towed at the request of the police and the plaintiff was left unconscious alongside the roadway.

26. As a result of the beating, the plaintiff was ultimately taken by ambulance to Northeastern Hospital where he was treated for contusions about his head and body.

27. After the plaintiff was stopped and detained by the defendant John Doe Philadelphia police officers, he was subjected to unnecessary and unreasonable force and deprived of his liberty in violations of the civil rights guaranteed to him by the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Section 1983, the application of which force was a factual cause of the injury to his person.

28. After being subjected to the beating, the plaintiff was left alongside the roadway, without his vehicle and without his personal effects, without being charged with any criminal conduct.

29. The foregoing actions of the John Doe Philadelphia Police Officers involved in the assault and beating of the plaintiff, constituted a violation of the plaintiff's constitutional right to be free from the use of excessive force and a violation of his right to be free from summary punishment.

30. After the assault and battery inflicted upon him by the John Doe defendant police officers, the plaintiff suffered pain and suffering and endured humiliation and embarrassment

31. As a direct and proximate result of the said acts, the plaintiff suffered injuries and damages including but not limited to the following:

- a) violation of his constitutional rights to be free from an unreasonable seizure under the Fourth Amendment and to be free from a deprivation of liberty under the Fourteenth Amendment;
- b) violation of his constitutional right to be free from the use of excessive force;
- c) violation of his right to be free from summary punishment;
- d) loss of physical liberty;
- e) physical pain and suffering;
- f) emotional upset and trauma;
- g) expenses incurred in the medical treatment of his condition;
- h) humiliation and embarrassment; *and*
- i) injury to his reputation.

All entitling him to compensatory and punitive damages as set forth below

COUNT I

42 U.S.C. § 1983 AGAINST JOHN DOE DEFENDANT POLICE OFFICERS

32. Paragraphs 1 through 31 are incorporated herein by reference as though fully set forth at length.

33. Plaintiff claims damages against defendants, Officer John Doe #1, Officer John Doe #2, Officer John Doe #3 and Officer John Doe #4, as well as other City of Philadelphia Police Officers involved in the detainment and beating of the plaintiff, Patrick McCollum, individually and in their official capacities for the injuries and damages set forth above under 42 U.S.C. § 1983 for violation of plaintiff's constitutional rights under color of state law.

COUNT II

ASSAULT AND BATTERY AGAINST JOHN DOE DEFENDANT POLICE OFFICERS

34. Paragraphs 1 through 31 are incorporated herein by reference as though fully set forth at length.

35. Defendant Philadelphia Police Officers involved in the detainment and beating of plaintiff, Patrick McCollum, including but not limited to Officer John Doe #1, Officer John Doe #2, Officer John Doe #3 and Officer John Doe #4, assaulted and battered the plaintiff.

36. As a result of this assault and battery, plaintiff suffered the aforesaid injuries and damages.

COUNT III

**FEDERAL CIVIL RIGHTS VIOLATIONS, 42 U.S.C. § 1983 CLAIM AGAINST DEFENDANT,
CITY OF PHILADELPHIA**

37. Paragraphs 1 through 31 are incorporated here by reference as though fully set forth at length.

38. As a direct and proximate result of the John Doe defendant officers' conduct committed under color of state law, defendants deprived plaintiff, Patrick McCollum, of his rights privileges and immunities under the laws and Constitution of the United States, plaintiff's rights to be free from unreasonable and excessive force, unreasonable searches and seizures and false imprisonment to be secure in his person and property and to due process of law. As a result, plaintiff suffered harm in violation of his rights under the law and Constitution of the United States, in particular 42 U.S.C. § 1983.

39. As a direct and proximate result of the acts of all defendants, plaintiff sustained physical injuries.

40. It was the policy and/or custom of the defendant, City of Philadelphia and City of Philadelphia Police Department, to tolerate, condone and, through inaction, encourage the unconstitutional conduct of police officers including most especially defendant City of Philadelphia Police officers, including but not limited to the John Doe defendant police officers involved herein, who defendant knew had committed similar acts of physical violence upon individuals while acting under the authority of its office and under color of state law.

41. The City of Philadelphia has encouraged, tolerated, ratified and has been deliberately indifferent to the following patterns, practices and customs and to the need for more or different training, supervision, investigation or discipline in the areas of:

- a. The abuse of police powers, including but not limited to excessive force, unlawful detention, false arrest and improper searches and seizures;
- b. The failure of police officers to follow established policies and procedures regarding probable cause for arrest;
- c. Proper procedures, in the manner in which detainees are treated so that they are not subject to physical abuse at the hands of police so that: i) employees of Defendant City of Philadelphia, including the defendant officers in this case, can be properly trained, supervised and disciplined for conduct related to the performance of their duties; ii) Defendant City of Philadelphia can properly monitor the conduct and performance of their employees to assure compliance with the laws and Constitutions of the United States and the Commonwealth of Pennsylvania; and iii) citizens such as the plaintiff can determine the identities of those employees who

subject them to constitutional violations under such circumstances as presented herein and thereby seek vindication of their constitutional and statutory rights; and

d. The failure of police officers to prevent, deter, report or take action against the unlawful conduct of other officers under such circumstances as presented herein.

42. The City of Philadelphia failed to properly sanction or discipline officers, who are aware of and subsequently conceal and/or aid and abet violations of constitutional rights of citizens by other police officers, thereby causing and encouraging police, including the John Doe defendant police officers herein to violate the rights of citizens such as plaintiff's.

43. By these actions, all defendants, acting in concert and conspiracy, have deprived plaintiff of rights secured by the First, Fourth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. §1983.

44. It was the policy or custom of the defendant, City of Philadelphia, to inadequately supervise and train its police officers thereby failing to adequately discourage further constitutional violations on the part of its officers/detectives.

45. The City of Philadelphia failed to properly sanction or discipline officers, who are aware of and conceal and/or aid and abet violations of constitutional rights of citizens by other Philadelphia Police Officers, thereby causing and encouraging Philadelphia police, including the defendant John Doe officers in this case, to violate the rights of citizens such as the plaintiff.

46. As a result of the above described policies and customs, police officers employed by the defendant, City of Philadelphia, including but not limited to the John Doe officer defendants herein, believed their actions would not be properly monitored by supervisory officers and that their misconduct would not be investigated or sanctioned but would be tolerated.

47. The above described policies and customs demonstrated a deliberate indifference on the part of the policymakers of the City of Philadelphia to the constitutional rights of persons within the City of Philadelphia and were the cause of the violations of plaintiff's rights as described herein.

COUNT IV
42 U.S.C. § 1983 CLAIM AGAINST DEFENDANT,
CITY OF PHILADELPHIA POLICE DEPARTMENT

48. Paragraphs 1 through 47 are incorporated here by reference as though fully set forth at length.

49. As a direct and proximate result of defendants' conduct committed under color of state law, plaintiff was deprived of his right to be free from unreasonable and excessive force, to be secure in his person and property and to due process of law. As a result, plaintiff suffered harm in violation of his rights under the law and Constitution of the United States, in particular 42 U.S.C. § 1983.

50. As a direct and proximate result of the acts of all defendants, plaintiff sustained physical injuries which caused him receive emergency room treatment at Northeastern Hospital.

51. It was the policy and/or custom of the defendant, City of Philadelphia Police Department, to tolerate, condone and, through inaction, encourage the unconstitutional conduct of police officers including most especially defendant City of Philadelphia Police Department officers involved in the detainment and assault and battery upon the plaintiff, Patrick McCollum, including but not limited to the John Doe defendant police officers named herein, who defendant, City of Philadelphia, knew had committed similar acts of physical violence upon individuals while acting under the authority of its office and under color of state law.

52. It was the policy or custom of the defendant, City of Philadelphia Police Department, to inadequately supervise and train its police officers thereby failing to adequately discourage further constitutional violations on the part of its police officers.

53. The City of Philadelphia Police Department failed to properly sanction or discipline officers, who are aware of and conceal and/or aid and abet violations of constitutional rights of citizens by other Philadelphia Police Officers, thereby causing and encouraging Philadelphia police, including the John Doe defendant officers in this case, to violate the rights of citizens such as the

plaintiff.

54. As a result of the above described policies and customs, police officers employed by the defendant, City of Philadelphia Police Department, including the individual John Doe defendant police officers herein, believed their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned but would be tolerated.

55. The above described policies and customs demonstrated a deliberate indifference on the part of the policymakers of the City of Philadelphia Police Department to the constitutional rights of persons within the City of Philadelphia and were the cause of the violations of plaintiff's rights as described herein.

COUNT V

SUPPLEMENTAL STATE CLAIMS - ASSAULT AND BATTERY

56. Plaintiff incorporates by reference paragraphs 1 through 31 of his complaint.

57. The acts and conduct of the John Doe defendant officers in this cause of action constitutes assault, battery and intentional infliction of emotional distress under the laws of the Commonwealth of Pennsylvania and this Court has supplemental jurisdiction to hear and adjudicate these claims.

COUNT VI

SUPPLEMENTAL STATE CLAIM - FALSE IMPRISONMENT AGAINST DEFENDANT JOHN DOE OFFICERS

58. Plaintiff incorporates by reference paragraphs 1 through 31 of his complaint.

59. The John Doe defendant officers illegally imprisoned the plaintiff, Patrick McCollum, while subjecting him to an assault and battery.

60. As a result of this illegal imprisonment, plaintiff, Patrick McCollum, suffered damages as aforesaid.

WHEREFORE, the plaintiff requests that the Court:

- a) award compensatory damages to plaintiff against the defendants jointly and severally;
- b) award exemplary or punitive damages against the defendants
- c) award reasonable costs and attorney's fees to the plaintiff; *and*
- d) award such other relief as the Court may deem appropriate.

JAFFE & HOUGH

By: trh4061
TIMOTHY R. HOUGH, ESQ.
Attorney for plaintiff
I.D. # 40898
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